

Issue Brief

Order Code IB87227

PAKISTAN'S NUCLEAR PROGRAM: U.S. FOREIGN POLICY CONSIDERATIONS

Updated January 13, 1988



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PAKISTAN'S NUCLEAR PROGRAM: U.S. FOREIGN POLICY CONSIDERATIONS**SUMMARY**

Congress has struggled for more than 6 years to find a formula to reconcile U.S. military and economic support of Pakistan, a key ally in opposing the Soviet occupation of Afghanistan, with the U.S. policy to prevent the spread of nuclear weapons. Since April 1979 Pakistan has been deemed to be in violation of Section 669 of the foreign assistance act (Symington amendment), which bans aid to countries that acquire unsafeguarded nuclear enrichment technology. During final action on the FY88 continuing appropriations resolution, Congress opted to extend until April 1990 a previous 6-year waiver to the application of Section 669 in Pakistan's case, thus facilitating continuation of U.S. aid to Pakistan. Due to the controversial nature of that compromise action, Congress may face a renewed debate over the conditions on U.S. aid to Pakistan when it takes up the FY89 budget request.

Pakistan plays a key role in U.S. efforts to oppose the Soviet occupation of Afghanistan by hosting up to 3 million Afghan refugees and facilitating the supply of arms to the Afghan resistance. Cutting off aid to Pakistan could endanger U.S. efforts to oppose the Soviets in Afghanistan, while failing to restrain Pakistan's nuclear program could lead to a nuclear arms race between Pakistan and its regional rival, India.

A judgment about preferred policy approaches depends heavily on a calculation of U.S. leverage. Sources of leverage include Pakistan's dependence on the United States for economic aid and political support against Soviet pressure; and a need for weapons systems that only the United States can provide. Limitations on U.S. leverage include Pakistan's refusal to accept an Indian nuclear monopoly; its perception that, on Afghanistan, the United States needs Pakistan more than Pakistan needs the United States; conflicting U.S.-Pakistan security priorities and related Pakistani doubts about U.S. reliability; and Pakistan's ability to play upon U.S. policy differences.

As of early 1988, options for Congress include: (1) rescinding the recently extended waiver to Section 669; (2) linking a longer-term waiver to a verifiable commitment by Pakistan not to produce nuclear weapons-grade material; (3) adding additional reporting or certification requirements to the current waiver authority; and, (4) imposing no new conditions on aid to Pakistan during the life of the current waiver, which expires in April 1990.

ISSUE DEFINITION

Congress has struggled for more than 6 years to find a formula to reconcile conflicting U.S. policy goals concerning Pakistan. On the one hand, Congress wishes to provide aid to Pakistan as a key ally in the U.S. effort to oppose the Soviet invasion of Afghanistan. On the other hand, Congress seeks ways to influence Pakistan to cease its apparent effort to acquire the capability to build nuclear weapons.

This issue brief focuses on foreign policy considerations that are central to the congressional decisions on aid to Pakistan. Other CRS issue briefs dealing with Pakistan include Issue Brief 85112, which contains a broader discussion of U.S. aid issues concerning Pakistan, and Issue Brief 86110, which provides more detailed information on Pakistan's nuclear activities.

BACKGROUND AND ANALYSIS

Nuclear Proliferation Threat in South Asia and U.S. Policy Tradeoffs

Since 1974, when India conducted its so-called "peaceful nuclear explosion" (PNE), the United States has faced the problem of reconciling its regional foreign policy interests in South Asia with its desire to stop the proliferation of nuclear weapons. In theory, preventing proliferation would also further other foreign policy goals such as regional stability. In practice, the intensity of the India-Pakistan rivalry, which has led to three wars since 1947, and the interaction of south Asian affairs with global politics has tended to present the United States with policy tradeoffs.

In the late 1970s, when concern about Soviet expansion in southern Asia was at a low ebb, U.S.-Pakistan relations were strained severely over American efforts to stop Pakistan from importing the means to produce nuclear weapons materials. Pressure by both the Ford and Carter Administrations led France to suspend an agreement to build a plant in Pakistan to recover plutonium from spent uranium fuel (reprocessing) — one source of nuclear weapons material. In April 1979 the Carter Administration cut off aid to Pakistan after learning that Islamabad was secretly importing parts to build a plant to produce enriched uranium — an alternative source of nuclear weapons material.

Moscow's December 1979 invasion of Afghanistan caused the United States to subordinate its nuclear dispute with Pakistan to U.S. policy to oppose Soviet expansionism. Since September 1981, when the United States and Pakistan reached agreement on a 6-year, \$3.2 billion program of economic and military assistance, Pakistan has become a key regional ally. U.S. aid to Pakistan has averaged about \$650 million per year. Pakistan has become the third largest recipient of U.S. aid, after Israel and Egypt. This aid program became possible because Congress, in late 1981,

waived the application of the Symington amendment until September 1987, subject to a number of conditions.

U.S.-Pakistan Cooperation on Afghanistan

U.S. aid to Pakistan has as its underlying rationale close cooperation in supporting the anti-Soviet Afghan guerrilla forces. Despite discomfort over its role as a "front line state" facing a Soviet-occupied Afghanistan, Islamabad has facilitated a steadily increasing and apparently effective supply of arms to the Afghan resistance forces. These forces have their political headquarters in the city of Peshawar, in Pakistan's Northwest Frontier Province. Open U.S. "humanitarian" aid to the Afghans now totals \$30 million per year, while covert aid to the Afghan resistance is now reported in the media as over \$500 million annually. According to press reports, the United States has been supplying the Afghan mujahidin ("warriors for the faith") with the highly effective "Stinger" anti-aircraft missile, a weapon which appears to have significantly affected the military situation in favor of the Afghan guerrillas.

Pakistan's policy on Afghanistan is rooted in its interest in preventing the consolidation of a Soviet-dominated government on its northern border and securing the voluntary return of up to 3 million Afghan refugees. Pakistani leaders take pride in having welcomed the refugees and played a leading role in organizing international opposition to the Soviet invasion well before the September 1981 resumption of U.S. aid to Pakistan. At the same time, the Pakistani elite has been divided over how closely the country should align itself with the United States on this issue, and on how far it should provoke Moscow's wrath. Among the political opposition there is widespread criticism of the country's Afghanistan policy, and calls to reach an accommodation with the government in Kabul.

By several measurements the Afghan assistance program has been the most successful of the "Reagan Doctrine" initiatives to support anti-Communist guerrilla movements. The Afghan resistance has been able to achieve a limited standoff with Soviet and Afghan army troops, restricting Soviet control to the main urban areas and communications routes, while Moscow has failed in its political objective of consolidating a pro-Soviet Communist regime. These results could not have been achieved without Pakistan's cooperation to funnel militarily effective arms to the Afghan guerrillas.

Growing Threat of Nuclear Proliferation

At the same time, a series of events have made clear that the U.S.-Pakistan security relationship has not halted Pakistan's drive to achieve a nuclear weapons capability. A uranium enrichment facility at Kahuta, about 25 miles from Islamabad, is generally regarded as the main focus of Pakistan's effort to produce weapons-grade nuclear material. Warhead development reportedly is being carried out at a Pakistan Army facility, also near Islamabad. According to press reports, Pakistan has in the past received financing and uranium ore from Libya, and received

the design of a warhead and other assistance from China. The latter has been denied by Beijing.

Many Members of Congress are concerned that Pakistan's nuclear activities are pushing India to abandon its long professed vow not to build nuclear weapons. According to knowledgeable sources, India has enough unsafeguarded plutonium to build scores of nuclear weapons, if the plutonium is of weapons grade. Its nascent space program, which has already enabled India to launch small satellites, could serve as the basis for an intermediate range ballistic missile capability. Indian leaders now warn that they will not stand idly by if Pakistan builds nuclear weapons. Others see India as responsible for the present crisis, and seek ways to influence New Delhi to accept Pakistan's offer to negotiate a bilateral or regional nonproliferation accord, or jointly accede to the Nuclear Nonproliferation Treaty (NPT).

At present, various news reports suggest that Pakistan has come a long way towards developing its option to deploy nuclear weapons, although it is still considerably behind India in terms of ability to produce significant quantities of weapons-grade material, and in warhead technology and options for delivery vehicles. It is not clear from published information whether Pakistan has actually assembled any weapons, or is "two-screwdriver turns" away, or has simply satisfied itself that it has the ability to put together a small nuclear arsenal on short notice. U.S. officials have formally testified to Congress that the Administration does not believe that Pakistan has built nuclear weapons, but they cannot guarantee that it does not have the capability to do so.

A Nov. 27, 1987, United Press International report quoted "a U.S. military analyst" as saying that "Pakistan definitely has a workable nuclear device." This has not been confirmed. If true, this development would appear to make moot current proposals to keep Pakistan from achieving a nuclear weapons capability, but the United States would still seek to deter Pakistan from deploying nuclear weapons.

One especially vexing aspect of Pakistan's activities is an apparent pattern of violating U.S. domestic laws governing the export of sensitive materials and technology. Among the more recent incidents:

-- In June 1984 U.S. Customs agents arrested three Pakistanis in Houston and charged them with attempting illegally to export "krytrons," very high speed switches that could be used in a nuclear warhead. Papers in possession of the main defendant were said to tie him to Pakistan's Atomic Energy Commission. One of those arrested was convicted and deported to Pakistan.

-- In July 1987 a Canadian national of Pakistani origin, Arshad Z. Pervaz, was arraigned in Philadelphia on grounds that he allegedly sought to bribe U.S. Customs agents to grant a required license for the export of a specially hard steel called maraging steel, and beryllium which could be used in uranium enrichment centrifuges. Pervaz was convicted to conspiracy to export beryllium illegally and of making fake statements, but acquitted on grounds of entrapment on charges of bribery and illegally seeking to export maraging steel.

In both cases, Islamabad officially denied that the parties were acting on behalf of the government. With regard to the latter case, Pakistani officials privately acknowledge that the individual involved is a middleman who may have been acting ultimately in the interest of its nuclear program, but they suggest the theory that the attempt to export the steel from the United States was the result of profit-oriented businessman seeking the cheapest source, rather than an official act. Moreover, they protest indignantly the use of a "sting" type operation which they allege constituted entrapment.

(For additional information about Pakistan's nuclear program, see CRS Issue Brief 86110, Pakistan and Nuclear Weapons.)

Current Nonproliferation Legislation Affecting Pakistan

The policy debate over reconciling U.S. regional security and nonproliferation objectives is shaped by specific legislation.

At present, the most important legislative provision affecting Pakistan is Section 669 of the Foreign Assistance Act (Symington amendment), which forbids aid to countries that deliver to or receive from other countries nuclear (uranium) enrichment equipment, materials, or technology not under international safeguards. Of most immediate relevance to this section is Pakistan's unsafeguarded enrichment facility at Kahuta.

The President can waive application of the Symington amendment if he certifies to Congress that (1) terminating aid would seriously harm vital U.S. interests and (2) he has "reliable assurances" that the country in question will not acquire or develop nuclear weapons, or assist other countries to do so. Thus far, however, suspicions that Pakistan is pursuing weapons development have made it impossible for the Administration to utilize this waiver authority.

Prior to Sept. 30, 1987, the application of Section 669 to Pakistan had been waived for 6 years by Section 620E of the Foreign Assistance Act. This section was specifically approved by Congress in 1981 to facilitate U.S. cooperation with Pakistan on the Afghanistan issue despite the fact that Pakistan refused to provide sufficient verification that it was not developing nuclear weapons. The most recent version of the amendment (1985) allowed the provision of U.S. aid if the President certified that Pakistan did not possess a nuclear explosive device and that the proposed aid would reduce significantly the risk that Pakistan would possess one.

The Symington amendment waiver expired at the end of FY87. In action on the continuing appropriations resolution for FY88, H.J.Res. 395 (P.L. 100-202), Congress approved a simple extension of the previous Symington amendment waiver authority until April 1990.

Section 670 of the Foreign Assistance Act (Glenn amendment), a 1979 refinement of the original Symington amendment, requires a cutoff of aid to countries that transfer to or receive from other countries nuclear (plutonium) reprocessing equipment, materials, or technology; or detonate, receive, or transfer a nuclear explosive device. A 1985 amendment (Solarz) added section (a)(1)(B) that provides for a cutoff of aid to countries that either directly or through persons authorized to act on their behalf export illegally (or attempt to export) material, equipment, or technology that would contribute significantly to their ability to make nuclear weapons.

Section 670 serves as an important "marker" of U.S. determination not to tolerate Pakistan's crossing the nuclear threshold by exploding a device or transferring a device to another country. Even Pakistan's strongest supporters see it as important that Pakistan realizes that building or exploding a bomb would be intolerable to the United States. The Solarz amendment sought to backup U.S. efforts to deny Pakistan access to nuclear-related technology by imposing a severe penalty for illegally seeking such technology from U.S. sources. However, only the President can make the determination that an apparent violation has been committed by the Pakistan government or its agents.

Dilemma for U.S. Policy: Reconciling Regional Security and Nuclear Nonproliferation Objectives

The apparently growing nuclear proliferation threat in south Asia presents the Congress and the executive branch with a dilemma: how to reconcile nonproliferation policy goals with an important foreign policy goal of opposing the Soviet occupation of Afghanistan through close security cooperation with Islamabad. A growing sense that both the Afghan conflict and the movement towards nuclear weapons may be reaching a decisive stage makes the U.S. dilemma more acute.

Preferred policy choices depend heavily on the weight that is assigned to various considerations. Some feel that, if a choice must be made, upholding U.S. nuclear proliferation policy by requiring Pakistan to stop its suspicious activities is more important than any regional security objectives. Others hold to the contrary. Some Members either seek to reconcile the two objectives as much as possible, or seek further information on the potential gains and costs of various policy alternatives.

The discussion below examines the factors that influence the ability of the United States to reconcile its policy objectives towards Pakistan, and briefly analyzes the main options under consideration in Congress.

Sources and Limitations of U.S. Leverage

The ability of the United States to influence Pakistan depends in part on the strength of leverage that derives from U.S. aid to Pakistan. From the Pakistani perspective, the development of both a nuclear option and security cooperation with the United States serve the same ultimate objective of strengthening its overall security. To the extent that the

United States makes aid conditional on Pakistan observing nuclear restraint, however, Islamabad is presented with its own set of policy tradeoffs. The response of Pakistan's policymakers depends on their priorities, and the degree of risk that they calculate the United States is prepared to take to make them reorder their goals.

Sources of United States Leverage

The United States has several sources of leverage with Pakistan:

Pakistan's Need for External Political and Economic Support. One clear source of U.S. leverage is Pakistan's need for U.S. political and economic support. Political support is needed to signal to the Soviet Union and, less directly, to India that Pakistan has an important external ally whose response must be taken into account in any attempt to apply military or other pressure. Congress underscored U.S. support of Pakistan in late 1981 when it revalidated the 1959 U.S.-Pakistan bilateral security agreement. That agreement provides for mutual consultations and the use of force, if necessary, to counter Communist aggression.

Pakistan has benefitted from a steady flow of aid from the United States and other members of the western alliance, Pakistan's Islamic friends in the Persian Gulf, and the multinational lending institutions. This aid has been important to the stability of the current government and has helped fuel a growth rate averaging more than 6% per year over the past 5 years. This aid has become all the more important in recent years in the face of stagnant or declining remittances from Pakistani workers in the Gulf states. In the Pakistani fiscal year 1986 (April 1986-March 1987) gross foreign aid disbursements totaled about \$1.6 billion, thus covering more than half of the country's \$3 billion trade deficit (Pakistan imports about twice as much as it exports). Of this amount, U.S. bilateral aid totaled \$575 million.

A U.S. aid cutoff would seriously affect Pakistan's balance of payments, and could weaken the political position of the elected Muslim League government. A U.S. aid cut might cause the Islamic oil producing states to increase their aid, but in the face of their own declining oil revenues it is questionable whether they could fully compensate for the lost U.S. aid, and they could not make up for the loss of U.S. political support. Moscow has repeatedly offered to finance development and industrial projects in Pakistan, but such aid has never been seen as a viable alternative to U.S. and western economic and developmental support.

Pakistan's Need for Advanced Weapons Systems and Spare Parts. Ever since the 1965 India-Pakistan war, Pakistan has found it difficult to acquire modern military hardware. India, which Pakistan continues to regard as its main enemy, has a major defense supply relationship with the U.S.S.R. and a much greater ability to produce its own hardware. India has an approximately 2-1 edge in main battle tanks and a 3-1 advantage in modern combat aircraft.

A U.S. ban on arms sales to south Asia, imposed in 1965 and only slightly modified in 1968 and 1975, left Pakistan dependent on cheap, often free, but antiquated arms from China, and a few modern systems

obtained from France. The latter included Mirage III and V fighter-bombers, Crotale air defense missiles to protect its nuclear facilities, and a few helicopters.

U.S. aid since 1981 has provided a needed upgrade for Pakistan's military forces. Although the numbers of weapons transferred have not been large, due to their high cost, the systems give Pakistan some qualitative advantages against Afghan or Indian forces. Important systems transferred include 40 F-16s, AIM-9L "Sidewinder" air-to-air missiles, "Harpoon" anti-ship missiles, towed and self-propelled howitzers, and armed attack helicopters. The United States has also rebuilt and upgraded over 100 Korean War vintage tanks.

Given the realities of Pakistan's financial situation, the United States is virtually the only practical source of weapons of sufficient quality and quantity to make a difference in the country's defense capability. In the face of a U.S. aid cutoff, Pakistan's most likely move would be to seek modern weapons from Britain and France on the basis of concessional financing, or financing from friendly Gulf states such as Saudi Arabia. Given the Soviet stake in its relationship with India, Moscow is not a likely source of modern arms.

Limitations on U.S. Influence

The sources of U.S. leverage are offset by a series of significant limitations on U.S. influence. These include:

Pakistan's Refusal to Accept an Indian Nuclear Monopoly. The single greatest limitation on U.S. influence is Pakistan's apparent determination, at a minimum, to deny India a nuclear monopoly, and, at a maximum, to develop a nuclear weapons capability and thereby establish its status as a regional military and industrial power and as a leader of the Islamic world. One measure of Pakistani determination is the degree to which it has been willing to endanger its ties with the United States and western Europe by illegal clandestine imports of sensitive technology. Although Pakistani leaders have repeatedly denied having anything but peaceful intentions, statements by President Zia, Prime Minister Junejo, and others stress that Pakistan will not put all of its nuclear facilities under international inspection and safeguards unless India does likewise.

In a September 1987 address to an Islamabad conference on nuclear proliferation Pakistan's then-foreign minister appeared to clarify Pakistan's objectives somewhat. He stated that there were three scenarios for south Asia: nuclear monopoly, which he said was unacceptable; a nuclear arms race, which he said was undesirable; and a bilateral or multilateral agreement on a nuclear-free zone.

This formulation suggests that Pakistan is not amenable to unilateral actions that would allow India to develop its own nuclear option while Pakistan exercises self-denial, and that in the absence of any nuclear nonproliferation agreement or understanding with India, Pakistan will continue to develop the capability to conduct a nuclear arms race, if that appears necessary. Where Pakistan would strike the balance if forced to

choose between maintaining any given level of effort and retaining U.S. aid appears unanswerable at this time.

Perception that, on the Afghanistan Issue, the U.S. Needs Pakistan More Than Pakistan Needs the United States. While the United States and Pakistan share a mutual interest in opposing the consolidation of a pro-Soviet regime in Afghanistan, that objective is not viewed with the same intensity. For the United States, a steadily increasing flow of aid to the Afghan resistance is vital to the success of its policy. For Pakistan, increasing the flow of aid to Afghans brings with it increased risks of Soviet retaliation as well as potential gains.

The result of this difference in commitment to arming the Afghan resistance is a perception that on this issue the United States needs Pakistan more than Pakistan needs the United States. Pakistan provided low-level aid to the resistance even before the United States became involved, and many judge that Islamabad can ill afford to alienate the Afghan resistance fighters by ceasing to support them or entering into an agreement with the Soviet Union that would sell out their interests. At same time, the risks that Pakistan is prepared to run may be affected by the extent of U.S. support for its security. If a U.S. aid cutoff were to be accompanied by a serious breakdown of relations, as seems probable, it is unlikely that the United States would be able to continue to supply the resistance with items that presumably require close monitoring and coordination, such as the Stinger missiles, or continue its open cross border program of "humanitarian" aid.

Conflicting U.S.-Pakistan Security Priorities and Doubts About U.S. Reliability. U.S. leverage is also reduced by a significant difference in each country's security priorities and related Pakistani doubts about U.S. reliability. As a global power, the United States has been concerned primarily with deterring Soviet expansionism. Even now, however, Pakistan still sees India as its main security threat, and puts the vast bulk of its military forces on the Pakistan-Indian frontier.

To date, no American Administration has seen U.S. interests as served by being drawn into an India-Pakistan conflict or by writing off India, the largest power in the subcontinent. In fact, some degree of balance in U.S. relations with the two powers is seen by Washington as important to Pakistan's security.

Pakistan was bitterly disappointed by the failure of the United States to support it during its 1965 war with India, despite its membership in two U.S.-sponsored regional alliance systems (CENTO and SEATO). The United States saw the war as having been caused in large part by Islamabad's recklessness, and as not falling under the aegis of its alliance obligations. The imposition of a U.S. embargo on arms sales to either side hurt Pakistan much more than India. The limited U.S. "tilt" towards Pakistan in its 1971 war with India was viewed as ineffectual posturing in Pakistan.

At present, the United States appears to enjoy a high level of credibility with the Pakistani military, and with some of the current moderate-conservative political leadership, including Prime Minister

Junejo. But both the left and, to a lesser extent, the Islamic right object to aspects of the present U.S.-Pakistan relationship.

Pakistan's leaders are sensitive to public criticisms that Pakistan has become a "pawn in a superpower rivalry," and they shy away from publicly identifying with broader U.S. policy goals in the region. Recently, for instance, Pakistan declared that it would not allow port visits at Karachi by U.S. or western European ships involved in Persian Gulf convoy duties, out of concern for maintaining strict neutrality in the Iran-Iraq war. The debate in Congress over conditions to attach to aid to Pakistan tends to reinforce the Pakistani view that the United States has interests that are not compatible with its own, and that U.S. interest in Pakistan is situational and probably temporary. This, in turn, reduces Pakistan's willingness to accommodate U.S. interests on nonproliferation for what may be a passing strategic relationship with the "unreliable" United States.

Pakistan's Ability to Play Upon U.S. Policy Differences. A final limitation on U.S. leverage is the fact that Pakistan is aware of the considerations that go into U.S. policymaking, and of the divergent opinions within the Congress and the executive branch over how to deal with the nuclear proliferation issue. This knowledge makes it easier for Pakistan to play upon American anxieties and harder for Americans to judge the likely outcome of policy alternatives. The openness of the American policy process also creates reverberations among the politicized public in Pakistan, which tends to be supportive of the nuclear program. As a result, Pakistani leaders have a double incentive to resist concessions to U.S. concerns.

Options for Congress

Congressional options are circumscribed by the limitations of legislating on issues involving the behavior of a sovereign country, and by the apparent reluctance thus far of many Members to risk a rupture in ties to Pakistan during what may be a crucial phase in the Afghanistan conflict. As of December 1987, Congress effectively has four options to deal with the problem of Pakistan's nuclear enrichment activities; three of which are based on the premise that the President can certify that Pakistan does not now have nuclear weapons. (Should Pakistan be determined to have nuclear weapons, dealing with that development would pose an even more difficult policy challenge). In descending order of rigor, the options are:

Rescind the Symington Amendment Waiver

One option for Congress is to rescind the Symington amendment waiver and thereby put the burden on the Administration to gain "reliable assurances" from Pakistan that it is not developing nuclear weapons. Upon making such a determination, the President has the authority under the Symington amendment to provide U.S. aid.

This approach is advocated by those who feel that the United States has unduly compromised its global nuclear nonproliferation interests to

maintain a security relationship with Pakistan. Some who advocate this position judge that Pakistan needs U.S. aid more than it needs to develop a nuclear weapons capability, and that if the United States stands firm, Pakistan will yield. Others feel that the United States should maintain its nuclear nonproliferation policy regardless of the consequences for other U.S. interests.

Taking no action to waive the Symington amendment is by far the most risky in terms of U.S. foreign policy goals. Critics of this approach note that a previous aid cutoff did not cause Pakistan to change its nuclear policy, even after the Soviet invasion of Afghanistan. The Administration also argues that a cutoff itself would be destabilizing by leaving Pakistan no option to protect its security but to develop nuclear weapons. Finally, the impact of an ultimatum approach on public opinion in Pakistan might prevent the government from acceding to U.S. terms even if it decided that such a course was in the national interest.

Link a Long-Term Aid Commitment to the Non-Production of Weapons-Grade Material

A number of proposals in and out of Congress during 1987 would have linked a Symington amendment waiver to specific steps by Pakistan to limit its weapons program. Most proposals aimed at stopping or severely limiting the production of highly enriched uranium.

Among other provisions, formulations in draft legislation proposed by Representative Solarz and Senator Glenn would have offered Pakistan a new 6-year waiver to the Symington amendment in return for the cessation of the production of uranium above 5% enrichment, a commitment reportedly given by Pakistan to the United States in 1984. Senator Glenn's proposal would allowed a year-to-year waiver for economic assistance even if Pakistan continues to produce such material, provided the President certifies that Pakistan does not possess nuclear weapons and has not violated U.S. export laws, but military aid would be terminated.

In testimony before the House Foreign Affairs Committee on Oct. 15, 1987, Joseph S. Nye, Jr., the senior nonproliferation official under the Carter Administration, proposed linking aid to Pakistan to a somewhat less rigorous standard of not "building a nuclear arsenal or enriching large amounts of weapons grade material (thereby allowing experimental high enrichment). Nye would withhold high levels of aid and the sale of significant weapons systems pending such a certification, but would not cut aid entirely except in the event of a nuclear explosion, as is covered presently under Section 670 of the Foreign Assistance Act.

The advantages of these approaches would appear to lie in upholding U.S. nonproliferation terms and forcing Pakistan to decide its priorities, while not offending Pakistan's sense of sovereignty by requiring public acceptance of U.S. conditions, dismantling the facilities, or putting them under international inspection.

The limitations of the approach are the obverse of its advantages. The congressional formulations, and only slightly less so the Nye proposal, entail a significant risk that Pakistan might choose a rupture

in security ties rather than cutting back on its nuclear program. In theory, the provision of a 6-year waiver should be an attractive feature to Pakistan, but in practice Islamabad well knows that continued aid is subject to year-to-year alteration, and that appropriations are only granted one year at a time.

Add Additional Certification or Reporting Requirements to the Current Waiver Authority

Another option would be to add new conditions on aid for FY89 short of a verifiable commitment by Pakistan not to produce nuclear weapons-grade material. One variant might be the addition of new Presidential reporting or certification requirements, such as were dropped from committee-reported bills during final action on the FY88 continuing resolution. For instance, Congress could require a report on levels of enrichment being achieved by Pakistan and a report on whether Pakistan violated U.S. export laws in the Pervez export violation case.

The imposition of reporting requirements is seen by some as a means of signalling both Pakistan and the Administration that Congress is displeased with indications that Pakistan is continuing to develop its nuclear option.

The limitations of this approach include an absence of specific penalties for violating U.S. guidelines (such as enriching uranium above levels appropriate for peaceful research or civil power purposes) and the difficulty of forcing the Administration to provide a candid assessment of Pakistan's possible culpability in the export violation case when such a determination would require a cutoff of U.S. aid.

Impose No New Conditions on Aid to Pakistan During the Life of the Current 2 1/2 Year Extension of the Symington Amendment Waiver.

This approach is the one preferred by the Administration and by Members who believe that the existing formula represents the best balance between regional security and nonproliferation objectives. Its rationale rests on the assumption that the importance of U.S. aid will still deter Pakistan from exploding a device or deploying weapons, even if Islamabad continues to develop its capability to take these steps. Its main benefit is continuity of support for the U.S.-Pakistan security relationship, and, by implication, continued Pakistani cooperation on aid to the Afghan resistance forces.

Limitations of this option include: (1) the fact that it does not explicitly address new evidence that Pakistan is continuing to move towards a nuclear weapons capability; and (2) it does not address the issue of the attempt to export maraging steel to Pakistan in possible violation of section 670 (a)(1)(B) of the Foreign Assistance Act. Given indications that Moscow may be seriously considering a withdrawal from Afghanistan, it could also be argued that the United States should not make a long-term compromise of its nuclear proliferation policy in the interest of what could be a shorter term regional security objective.

Congressional Action in 1987

Authorization Legislation. Early in the 1987 legislative cycle the Foreign Affairs and Foreign Relations Committees both recommended a 2-year extension of the expiring Section 620E waiver authority, and imposed reporting requirements concerning enrichment levels achieved by Pakistan and other conditions that would not appear to prevent the continuation of U.S. aid. However, action by these committees preceded the revelation of the export law violation. The House passed H.R. 3100 on December 10 without changes in the proposed 2-year Symington amendment waiver authority, but with additional reporting requirements concerning the extent to which Pakistan may have received or given assistance in developing nuclear weapons, or shared or otherwise allowed to be compromised sensitive U.S. military technology.

Appropriations Bills. The House Appropriations Committee bill (H.R. 3186), essentially would have allowed the continuation of U.S. aid under previous existing terms, but would have suspended aid temporarily and limited authority to waive the Symington amendment only for nine months. The bill would have earmarked \$540 million in economic and military aid for Pakistan for FY88 but would have delayed the availability of the funds until Jan. 15, 1988. The bill would have also required the President to submit an unclassified report to the Congress by Jan. 1, 1988, answering a number of questions about the export law violation case and the outcome of discussions with Pakistan about the incident. The bill would have also required the President to report to Congress on enrichment levels achieved by Pakistan.

The Senate Appropriations Committee bill, S. 1924 (S.Rept. 100-236), included a 6-year extension of the previous waiver to the Symington amendment, but also added a new section, subject to separate waiver provisions, concerning the production of nuclear material by India and Pakistan. A proposed section 669 (c) would have barred U.S. aid and the granting of export licenses for the purchase of sophisticated U.S. equipment or technology to any "country in south Asia which the President determines is producing weapons-grade enriched uranium or separated plutonium in unsafeguarded facilities." The bill would have also required U.S. representatives on multilateral agencies like the World Bank and the IMF to vote against aid to such countries. However, the bill would have allowed the President to waive the prohibition for 6 months at a time by (1) certifying that the country in question had stopped producing weapons grade enriched uranium or separated plutonium in unsafeguarded facilities, or put relevant facilities under international safeguards, or (2) by certifying that: (a) another south Asia nation was also producing weapons grade enriched uranium or separated plutonium; (b) that such production by a neighbor "is a factor in" the production of weapons grade enriched uranium or separated plutonium by the potential aid recipient; and (c) it was in the U.S. national interest to waive the aid ban.

In practical terms the second waiver option would appear to have allowed aid to Pakistan as long as India was continuing to produce separated plutonium and allows U.S. aid and high technology sales to India as long as Pakistan continued to produce unsafeguarded enriched uranium.

The proposed Senate Appropriations Committee language also included reporting requirements regarding the export law violation and semiannual reports to the Select Committees on Intelligence on levels of enrichment being carried out by Pakistan.

Ultimately, Congress dealt with the issue of the Symington amendment waiver and other matters concerning U.S. aid to Pakistan through H.J.Res. 395, which provided continuing appropriations for FY88. As finally passed by the House and Senate on Dec. 22, 1987, and signed into law the same day (P.L. 100-202), the measure dropped many of the provisions that were contained in the House and Senate versions of the bill and simply extended the previous authority to waive Section 699 for an additional period of 2.5 years. The legislation also earmarked \$260 million in FMS credits (versus \$290 million requested) and \$220 million in Economic Support Funds (versus \$250 million requested) for Pakistan for FY88.

LEGISLATION

P.L. 100-202, H.J.Res. 395

Further continuing appropriations for FY88. Reported to House by Committee on Appropriations Oct. 29, 1987 (H.Rept. 100-415). Passed House, amended, 240-170 (roll call no. 458) December 3. Reported to Senate by Committee on Appropriations, with amendment, December 8 (S.Rept. 100-238). Conference report filed in House (H.Rept. 100-498) December 21. Enrolled in House and Senate. Signed into law Dec. 22, 1987.

H.R. 3100 (Pascall)

FY88 and FY89 foreign aid authorization bill. Reported by House Foreign Affairs Committee Aug. 26, 1987 (H.Rept. 100-294). Passed House, amended, 286-122 (roll call no. 475), Dec. 10, 1987.

H.R. 3186 (Obay)

FY88 foreign operations appropriations bill. Reported (H.Rept. 100-283) Aug. 6, 1987.

S. 1274 (Pell)

FY87 foreign aid authorization bill. Ordered reported by Senate Foreign Relations Committee Apr. 23 and officially reported May 22, 1987 (S.Rept. 100-60).

S. 1924 (Inouye)

FY88 foreign assistance appropriations bill. Reported (S.Rept. 100-236) Dec. 4, 1987.